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FILED

JUN 04 2013

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GUSTAVO A. PRIEGO, } No. C 13-00174 EJD (PR)
Plaintiff, } ORDER OF DISMISSAL
v. }
RANDY GROUNDS, et al., }
Defendants. } (Docket No. 11)

On January 14, 2013, Plaintiff, a California inmate at the Salinas Valley State Prison ("SVSP") in Soledad, filed the instant civil rights action in pro se pursuant to 42 U.S.C. § 1983 against SVSP officials. On March 14, 2013, the Court ordered Plaintiff to show cause why the complaint should not be dismissed for failure to exhaust administrative remedies. (Docket No. 5.) On May 23, 2013, Plaintiff filed a motion for voluntary dismissal and stay of fees until "full administrative exhaustion, and to refile at a later date." (Docket No. 11.)

In the motion, Plaintiff admits that he has recently pursued his administrative remedies to the third level. (Id.) As it is clear that Plaintiff did not "properly exhaust" his claims by pursuing all levels of administrative review available to him prior to filing the complaint, and there is no applicable exception to the exhaustion requirement, dismissal

1 without prejudice is appropriate. See Woodford v. Ngo, 548 U.S. 81, 84, 90-91 (2006).
2 Accordingly, Plaintiff's motion for voluntary dismissal is DENIED. This action is
3 DISMISSED without prejudice for failure to exhaust administrative remedies.

4 Plaintiff's motion for a stay of fees is DENIED. He must file a new action upon
5 exhaustion of his administrative remedies and be subject to the filing fees thereto.

6

7 CONCLUSION

8 For the foregoing reasons, this action is hereby DISMISSED, without prejudice to
9 Plaintiff's refiling his claims after all available administrative remedies have been
10 exhausted.

11 This order terminates Docket No. 11.

12 DATED: 6/4/13



EDWARD J. DAVILA
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

GUSTAVO ADRIAN PRIESO,

Plaintiff,

v.

RANDY GROUNDS, et al.,

Defendants.

Case Number: CV13-00174 EJD

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 6/04/13, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Gustavo Adrian Priego P-87815
Salinas Valley State Prison
P. O. Box 1050
Soledad, CA 93960-1050

Dated: 6/04/13

Richard W. Wierking, Clerk
By: Elizabeth Garcia, Deputy Clerk

